

1 HOUSE BILL NO. 668

2 INTRODUCED BY STAHL, MENDENHALL, ARNTZEN, AUGARE, BOGGIO, DUTTON, FUREY, HEINERT,
3 L. JONES, KEANE, KLOCK, MILBURN, REINHART, THOMAS, VAN DYK, WINDY BOY

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5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A PROCEDURE FOR PROFESSIONAL AND
6 OCCUPATIONAL LICENSING BOARDS ~~TO~~ THAT AUTHORIZED TO REQUIRE THE SUBMISSION OF
7 FINGERPRINTS BY LICENSE APPLICANTS PRIOR TO THE ISSUANCE OF A LICENSE; AMENDING
8 SECTIONS 37-1-201 AND 37-1-307, MCA; AND PROVIDING AN APPLICABILITY DATE."

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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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12 **Section 1.** Section 37-1-201, MCA, is amended to read:

13 **"37-1-201. Purpose.** It is the public policy of the legislature of the state of Montana to encourage and
14 contribute to the rehabilitation of criminal offenders and to assist them in the assumption of the responsibilities
15 of citizenship. The legislature finds that the public is best protected when ~~such~~ offenders are given the opportunity
16 to secure employment or to engage in a meaningful occupation, while licensure must be conferred with prudence
17 to protect the interests of the public. The legislature finds that the process of licensure will be strengthened by
18 instituting an effective mechanism for obtaining accurate public information regarding a license applicant's
19 criminal background."

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21 **Section 2.** Section 37-1-307, MCA, is amended to read:

22 **"37-1-307. Board authority.** (1) A board may:

23 (a) hold hearings as provided in this part;

24 (b) issue subpoenas requiring the attendance of witnesses or the production of documents and
25 administer oaths in connection with investigations and disciplinary proceedings under this part. Subpoenas must
26 be relevant to the complaint and must be signed by a member of the board. Subpoenas may be enforced as
27 provided in 2-4-104.

28 (c) authorize depositions and other discovery procedures under the Montana Rules of Civil Procedure
29 in connection with an investigation, hearing, or proceeding held under this part;

30 (d) establish a screening panel to determine whether there is reasonable cause to believe that a licensee

1 has violated a particular statute, rule, or standard justifying disciplinary proceedings. A screening panel shall
 2 specify in writing the particular statute, rule, or standard that the panel believes may have been violated. The
 3 screening panel shall also state in writing the reasonable grounds that support the panel's finding that a violation
 4 may have occurred. The assigned board members may not subsequently participate in a hearing of the case. The
 5 final decision on the case must be made by a majority of the board members who did not serve on the screening
 6 panel for the case.

7 (e) grant or deny a license and, upon a finding of unprofessional conduct by an applicant or license
 8 holder, impose a sanction provided by this chapter.

9 ~~(2) Each board is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose~~
 10 ~~of obtaining confidential criminal justice information regarding the board's licensees and license applicants and~~
 11 ~~regarding possible unlicensed practice.~~

12 (2) EACH BOARD IS DESIGNATED AS A CRIMINAL JUSTICE AGENCY WITHIN THE MEANING OF 44-5-103 FOR THE
 13 PURPOSE OF OBTAINING CONFIDENTIAL CRIMINAL JUSTICE INFORMATION, AS DEFINED IN 44-5-103, REGARDING THE
 14 BOARD'S LICENSEES AND LICENSE APPLICANTS AND REGARDING POSSIBLE UNLICENSED PRACTICE, BUT THE BOARD MAY
 15 NOT RECORD OR RETAIN ANY CONFIDENTIAL CRIMINAL JUSTICE INFORMATION WITHOUT COMPLYING WITH THE PROVISIONS
 16 OF THE MONTANA CRIMINAL JUSTICE INFORMATION ACT OF 1979, TITLE 44, CHAPTER 5.

17 ~~(2)(3)~~ A BOARD MAY CONTACT AND REQUEST INFORMATION FROM THE DEPARTMENT OF JUSTICE, WHICH IS
 18 DESIGNATED AS A CRIMINAL JUSTICE AGENCY WITHIN THE MEANING OF 44-5-103, FOR THE PURPOSE OF OBTAINING
 19 CRIMINAL HISTORY RECORD INFORMATION REGARDING THE BOARD'S LICENSEES AND LICENSE APPLICANTS AND REGARDING
 20 POSSIBLE UNLICENSED PRACTICE.

21 ~~(2)(a) As (3)(4)~~ (A) A BOARD THAT REQUIRES IS STATUTORILY AUTHORIZED TO OBTAIN A CRIMINAL BACKGROUND
 22 CHECK AS A PREREQUISITE TO THE ISSUANCE OF A LICENSE, A BOARD SHALL REQUIRE THE APPLICANT TO SUBMIT FINGERPRINTS FOR
 23 THE PURPOSE OF FINGERPRINT CHECKS BY THE MONTANA DEPARTMENT OF JUSTICE AND THE FEDERAL BUREAU OF INVESTIGATION.

24 (b) The applicant shall sign a release of information to the board and is responsible to the department
 25 of justice for the payment of all fees associated with the criminal background check.

26 (c) Upon completion of the criminal background check, the department of justice shall forward all criminal
 27 justice HISTORY RECORD information, as defined in 44-5-103, concerning the applicant that involves the conviction
 28 of a criminal offense in any jurisdiction to the board as authorized in 44-5-303.

29 (d) At the conclusion of any background check required by this section, the board must receive the
 30 criminal background check report but may not receive the fingerprint card of the applicant. Upon receipt of the

1 criminal background check report, the department of justice shall promptly destroy the fingerprint card of the
2 applicant.

3 ~~(e) If an applicant has a history of criminal convictions, then pursuant to 37-1-203, the applicant has the~~
4 ~~opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust.~~
5 ~~If the board determines that the applicant is not sufficiently rehabilitated, the license may be denied.~~

6 [(3)(4)(5) Each board shall require a license applicant to provide the applicant's social security number
7 as a part of the application. Each board shall keep the social security number from this source confidential, except
8 that a board may provide the number to the department of public health and human services for use in
9 administering Title IV-D of the Social Security Act.] (Bracketed language terminates on occurrence of
10 contingency--sec. 1, Ch. 27, L. 1999.)"

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12 **NEW SECTION. Section 3. Applicability.** [This act] applies to applications for licensure submitted on
13 or after [the effective date of this act].

14 - END -